

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS
WESTERN DIVISION

CITY OF CHICOPEE, Acting through the
Chicopee Public Schools,
Plaintiff

v.

DAVID T. As Parent and next friend of
Kaitlyn T. and MASSACHUSETTS
DEPARTMENT OF EDUCATION,
Defendants

Case No: 04-30087-MAP

**PLAINTIFF'S MOTION FOR LEAVE
TO OFFER ADDITIONAL EVIDENCE**

Now comes the City of Chicopee Acting Through the Chicopee Public Schools (“Chicopee”) and respectfully requests that this Honorable Court permit it to introduce additional evidence in this judicial appeal of the underlying Bureau of Special Education Appeals decision. Chicopee seeks to offer testimony from neuropsychologist, Dr. Judith Souweine, who served as an expert witness in the underlying hearing, pursuant to the provisions of 20 U.S.C. §1415 (I)(2)(A)(B) and Mass. General Laws Chapter 30A §14. The Court is authorized to receive evidence additional to records of administrative proceedings at the request of a party where such evidence is material and could not have been introduced at the underlying administrative hearing. See *Burlington v. Department of Education*, 736 F.2d 773 (1985).

In support of this motion, Chicopee directs the Court to its attached Memorandum of Facts and Law, its Complaint for Judicial Review and supporting exhibits, and the administrative record filed by the defendant, Massachusetts Department of Education.¹

¹ Chicopee notes that the administrative record submitted by the Massachusetts Department of Education is incomplete. School district exhibits S1 through S23 and S25 through S33 were admitted into evidence before the BSEA. Chicopee has requested the complete record from counsel for the Massachusetts Department of Education.

WHEREFORE, Chicopee moves for leave to offer oral testimony of Dr. Judith Souweine.

FOR PLAINTIFF,
CITY OF CHICOPEE ACTING
THROUGH THE CHICOPEE PUBLIC
SCHOOLS

By _____
Claire L. Thompson, Esq.
Doherty, Wallace, Pillsbury
& Murphy, P.C.
One Monarch Place
1414 Main Street, 19th Floor
Springfield, MA 01144
Phone: (413) 733-3111
Fax: (413) 734-3910
B.B.O. No: 550262

CERTIFICATE OF SERVICE

I certify that this document has been served upon all counsel of record in compliance with
F.R.C.P., on August 18, 2004

Claire L. Thompson